

# **EXHIBIT 38**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 Case No. 16-cv-5845 (AJN)

5 - - - - -x

6 DORRELIEN FELIX and MARGALY FELIX,  
7 individually, and JONATHAN C. MOORE, as  
8 Administrator of the Estate of DAVID  
9 FELIX,

10 Plaintiffs,

11 -against-

12 THE CITY OF NEW YORK, a municipal entity;  
13 HAROLD CARTER and VINCENTE MATIAS,  
14 individually and in their official  
15 capacities as New York City Police  
16 Detectives; the BRIDGE, Inc., a domestic  
17 not-for-profit organization; and JANE DOE  
18 (as of yet unidentified employee of the  
19 Bridge),

20 Defendants.

21 - - - - -x

22 99 Park Avenue  
23 New York, New York

24 October 23, 2019  
25 12:48 p.m.

DEPOSITION of THE CITY OF NEW YORK,  
one of the Defendants in the above-  
entitled action, by JAMES FULTON, held at  
the above time and place, taken before  
Arthur Hecht, a Shorthand Reporter and  
Notary Public of the State of New York,  
pursuant to the Federal Rules of Civil  
Procedure, and stipulations between  
Counsel.

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 BELDOCK, LEVINE &amp; HOFFMAN, L.L.P.</p> <p>5 Attorneys for Plaintiff</p> <p>6 99 Park Avenue</p> <p>7 New York, New York 10016</p> <p>8 BY: JONATHAN C. MOORE, ESQ.</p> <p>9 -and-</p> <p>10 LUNA DROUBI, ESQ.</p> <p>11</p> <p>12</p> <p>13 GEORGIA PESTANA, ESQ.</p> <p>14 CORPORATION COUNSEL, THE CITY OF NEW YORK</p> <p>15 100 Church Street</p> <p>16 New York, New York 10007</p> <p>17 BY: BRIAN FRANCOLLA, ESQ.</p> <p>18</p> <p>19</p> <p>20 ALSO PRESENT: PETER J. CALLAGHAN</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">* * *</p>	<p style="text-align: right;">Page 4</p> <p>1 Fulton</p> <p>2 JAMES FULTON, called as a</p> <p>3 witness, having been first duly sworn, was</p> <p>4 examined and testified as follows:</p> <p>5</p> <p>6 EXAMINATION BY</p> <p>7 MR. MOORE:</p> <p>8 Q. Good afternoon, Captain Fulton.</p> <p>9 Can you state your full name for the</p> <p>10 record and spell your last name?</p> <p>11 A. It's James Fulton, F-U-L-T-O-N.</p> <p>12 Q. Do you prefer being called Mr.</p> <p>13 Fulton or Captain Fulton?</p> <p>14 A. Mr. Fulton's fine.</p> <p>15 Q. Okay.</p> <p>16 A. Mr. Fulton's -- captain...</p> <p>17 Q. Can you tell us what your</p> <p>18 current employment is?</p> <p>19 A. I'm retired.</p> <p>20 Q. Retired. And where are you</p> <p>21 retired from?</p> <p>22 A. NYPD.</p> <p>23 Q. When did you retire?</p> <p>24 A. May of this year.</p> <p>25 Q. Congratulations.</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 STIPULATIONS</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED, by</p> <p>5 and among counsel for the respective</p> <p>6 parties hereto, that the filing, sealing</p> <p>7 and certification of the within deposition</p> <p>8 shall be and the same are hereby waived;</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to form of</p> <p>11 the question, shall be reserved to the</p> <p>12 time of the trial;</p> <p>13 IT IS FURTHER STIPULATED AND AGREED</p> <p>14 that the within deposition may be signed</p> <p>15 before any Notary Public with the same</p> <p>16 force and effect as if signed and sworn to</p> <p>17 before the Court.</p> <p>18</p> <p>19 * * *</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 Fulton</p> <p>2 A. Thank you.</p> <p>3 Q. How many years did you do?</p> <p>4 A. Approximately 28.</p> <p>5 Q. Twenty-eight?</p> <p>6 A. Yeah, about that.</p> <p>7 Q. And was your retirement</p> <p>8 voluntary?</p> <p>9 A. Yes.</p> <p>10 Q. At the time of your retirement,</p> <p>11 what rank were you?</p> <p>12 A. Captain.</p> <p>13 Q. Okay. In April of 2015, you</p> <p>14 were also the rank of captain?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. When did you -- when were</p> <p>17 you promoted to captain?</p> <p>18 A. I was promoted in 2003.</p> <p>19 Q. 2003?</p> <p>20 A. Yes.</p> <p>21 Q. What's your date of appointment</p> <p>22 to the police department?</p> <p>23 A. 1991.</p> <p>24 Q. When?</p> <p>25 A. April 30, 1991.</p>

<p style="text-align: right;">Page 6</p> <p>1 Fulton</p> <p>2 Q. 1991?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. And captain, October 31st.</p> <p>6 Q. October --</p> <p>7 A. 31st, Halloween.</p> <p>8 Q. All right. In April of 2015,</p> <p>9 what was your assignment?</p> <p>10 A. I was the executive officer of</p> <p>11 the firearms and tactics section.</p> <p>12 Q. And when did they -- where were</p> <p>13 your offices?</p> <p>14 A. Rodmans Neck in the Bronx.</p> <p>15 Q. How long were you the executive</p> <p>16 officer there?</p> <p>17 A. Close to six years.</p> <p>18 Q. And before you were the</p> <p>19 executive officer of the firearms and</p> <p>20 tactics section, what was your assignment?</p> <p>21 A. Leading up to that, I was in</p> <p>22 narcotics.</p> <p>23 Q. How long were you in narcotics?</p> <p>24 A. Six years.</p> <p>25 Q. Where, in the Bronx?</p>	<p style="text-align: right;">Page 8</p> <p>1 Fulton</p> <p>2 Q. Right.</p> <p>3 A. And then also recruit training</p> <p>4 would come up to us for firearms training.</p> <p>5 Q. Who was your supervisor there?</p> <p>6 A. My -- Raymond Caroli --</p> <p>7 Inspector Raymond Caroli -- or chief,</p> <p>8 sorry Chief Caroli. He was an inspector</p> <p>9 at the time.</p> <p>10 Q. Spell the last name.</p> <p>11 A. Ray Caroli, C-A-R-O-L-I.</p> <p>12 MR. MOORE: Off the record.</p> <p>13 [Discussion held off the</p> <p>14 record.]</p> <p>15 Q. Anything else you can tell us</p> <p>16 about your duties and responsibilities as</p> <p>17 the XO of the firearms and tactics</p> <p>18 section?</p> <p>19 A. That's it, I just supervised,</p> <p>20 you know, lieutenants, sergeants, cops,</p> <p>21 make sure on a daily basis they were given</p> <p>22 proper training, firearms training.</p> <p>23 Q. From time to time, were you</p> <p>24 asked to conduct an investigation or be a</p> <p>25 part of an investigation into an officer's</p>
<p style="text-align: right;">Page 7</p> <p>1 Fulton</p> <p>2 A. That was my last assignment, but</p> <p>3 I was in the Bronx, Queens, Brooklyn</p> <p>4 North, Brooklyn South.</p> <p>5 Q. Okay. When you retired, were</p> <p>6 you still in -- the executive officer of</p> <p>7 the firearms and tactics section?</p> <p>8 A. Yes.</p> <p>9 Q. So explain to us what your</p> <p>10 duties and responsibilities were as an</p> <p>11 executive officer for the firearms and</p> <p>12 tactics section.</p> <p>13 A. I was in second in command</p> <p>14 in the -- you know, I usually did four to</p> <p>15 twelves, and qualifications of the</p> <p>16 firearms for the members of the service, I</p> <p>17 oversaw that, and --</p> <p>18 Q. You oversaw the -- oversaw the</p> <p>19 qualifications for members of service on</p> <p>20 the use of weapons?</p> <p>21 A. On firearms, the firearm</p> <p>22 qualifications.</p> <p>23 Q. Okay.</p> <p>24 A. They're annual, so they would</p> <p>25 have to come twice a year.</p>	<p style="text-align: right;">Page 9</p> <p>1 Fulton</p> <p>2 discharge of their weapon?</p> <p>3 A. Yes.</p> <p>4 Q. How did that come about?</p> <p>5 A. The boroughs -- each borough</p> <p>6 would have -- if there was a shooting</p> <p>7 within the borough, they were responsible</p> <p>8 to -- borough, on the borough level to --</p> <p>9 before it went to the main firearms</p> <p>10 discharge review board with the, you know,</p> <p>11 the higher staff, I guess --</p> <p>12 Q. Right.</p> <p>13 A. -- the chiefs and stuff, they</p> <p>14 would have to do an investigation and pass</p> <p>15 it up -- and -- I guess they'd have to</p> <p>16 have findings when, you know, the</p> <p>17 shooting's a good shoot or not a good</p> <p>18 shoot.</p> <p>19 So part of it was they would</p> <p>20 send me, through e-mail, to find out,</p> <p>21 because we were from tactics, you know,</p> <p>22 firearms and tactics, to take a look at</p> <p>23 the situation -- the incident and deem if</p> <p>24 there's any type of -- you know, how the</p> <p>25 incident -- was it reasonable and if there</p>

<p style="text-align: right;">Page 10</p> <p>1                   Fulton</p> <p>2 was any, you know, maybe disadvantages or</p> <p>3 tactics or advantages, tactical advantages</p> <p>4 or disadvantages, and I must have done</p> <p>5 over a hundred of them.</p> <p>6     Q. When you say a hundred, you mean</p> <p>7 a hundred where you assisted in the</p> <p>8 overall investigation of somebody's</p> <p>9 discharge of weapon?</p> <p>10    A. Well, they would send me the</p> <p>11 reports and I would have to, you know, do</p> <p>12 a little -- like on tactics, one of the</p> <p>13 sections, and I would have to comment on</p> <p>14 it.</p> <p>15       And sometimes it would come, you</p> <p>16 know, you know, when they would do the</p> <p>17 board, it wasn't like they did a board</p> <p>18 right after the shooting, sometimes it</p> <p>19 would be a year later, two years --</p> <p>20    Q. Yes.</p> <p>21    A. -- later, so, you know, I'd get</p> <p>22 the information, they'd say, listen, we're</p> <p>23 going to do a board on, like, these</p> <p>24 shootings, from the borough standpoint, we</p> <p>25 need, you know, a comment, on, you know,</p>	<p style="text-align: right;">Page 12</p> <p>1                   Fulton</p> <p>2 the tactics used, correct?</p> <p>3     A. Yes, it would be after the fact.</p> <p>4 It would be, you know, in hindsight, what</p> <p>5 if -- you know, what do I -- like, you</p> <p>6 know, like I said, six months, a year</p> <p>7 later, they'd say this is -- this is the</p> <p>8 facts, this is a video or whatever we have</p> <p>9 on it, what do you see.</p> <p>10    Q. So when you did the</p> <p>11 investigation -- withdraw that.</p> <p>12       Were there ever any occasion</p> <p>13 where you yourself were responsible for</p> <p>14 the overall investigation that was being</p> <p>15 done by the firearms discharge review</p> <p>16 board of a shooting?</p> <p>17    A. No.</p> <p>18    Q. Okay. So your involvement in</p> <p>19 these shooting investigations by members</p> <p>20 of service was always from the standpoint</p> <p>21 of what tactics were used, whether they</p> <p>22 were, you know, looking at the tactics</p> <p>23 that were used?</p> <p>24    A. Tactics and also if the shooting</p> <p>25 seemed reasonable or not.</p>
<p style="text-align: right;">Page 11</p> <p>1                   Fulton</p> <p>2 what you can see about tactics, I'd say</p> <p>3 okay and I'd take a look at it.</p> <p>4       And at first, I think Inspector</p> <p>5 Caroli was doing them before I got there,</p> <p>6 and when I got there, he made that one of</p> <p>7 my assignments, so -- but I still would go</p> <p>8 to him, you know, on occasion, you know,</p> <p>9 and ask him for advice because, you now --</p> <p>10    Q. Right.</p> <p>11    A. -- some were a little more, you</p> <p>12 know, difficult than others, so.</p> <p>13    Q. So just so I understand, you</p> <p>14 weren't the person who was actually</p> <p>15 responsible for conducting the</p> <p>16 investigation of a discharge of weapon,</p> <p>17 but you would participate in that</p> <p>18 process --</p> <p>19    A. Yeah, it was after the fact, it</p> <p>20 was like --</p> <p>21    Q. Let me just finish the --</p> <p>22    A. Okay.</p> <p>23    Q. -- question.</p> <p>24    A. Sorry.</p> <p>25    Q. -- as part of the -- reviewing</p>	<p style="text-align: right;">Page 13</p> <p>1                   Fulton</p> <p>2     Q. Seemed --</p> <p>3     A. Seemed reasonable or not.</p> <p>4     Q. Okay.</p> <p>5     A. You know.</p> <p>6     Q. So you were asked to -- you</p> <p>7 would be asked to give an opinion as to</p> <p>8 whether the shooting in a particular case</p> <p>9 was -- reflected appropriate tactics, is</p> <p>10 that -- is that correct?</p> <p>11    A. They wouldn't ask -- they would</p> <p>12 -- they would say they're going to send me</p> <p>13 information, and then whatever information</p> <p>14 I saw, if I saw -- because I was in</p> <p>15 training, if I saw a tactical advantage</p> <p>16 that the cops could have used, or a</p> <p>17 tactical disadvantage that they used, I</p> <p>18 would comment if I felt it needed to be</p> <p>19 commented on.</p> <p>20    Q. Okay. You also said -- I</p> <p>21 believe you said that you would also be</p> <p>22 asked to opine as to whether the shooting</p> <p>23 was reasonable or not, is that correct?</p> <p>24    A. Most times if it was a good --</p> <p>25 if it was like a good shoot or a bad</p>

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1 Fulton

2 Q. Did you even know about that?

3 A. No.

4 Q. In the video we just observed,

5 did you ever see anything in the hand of

6 David Felix, any radio, any stick, any gun

7 or anything?

8 A. I don't believe so.

9 Q. Okay. And so for all the time

10 that they were struggling in front of that

11 door there, there was nothing in his

12 hands, correct, as far as you can recall?

13 A. I didn't see -- yeah, I didn't

14 see anything.

15 Q. And you never saw him actually

16 slug or punch any of the officers while

17 they were in the front there, correct?

18 A. I didn't see that, no.

19 Q. Okay. Now, you say here and it

20 says here in the tactics section, after it

21 says the incident was reviewed by you

22 regarding tactics, it says the detectives

23 would have been prudent if they requested

24 additional backup personnel due to the

25 violent criminal past and mental history

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1 Fulton

2 of the perpetrator prior to their

3 interaction, do you see that?

4 A. Yes.

5 Q. Is that an opinion you gave to

6 Lieutenant Hatzoglou, is that an opinion

7 you gave to him?

8 A. Yeah, that's from -- from what I

9 gleaned from the information, that's what

10 I thought.

11 Q. What do you mean by that, that

12 they would have been prudent to request

13 additional backup?

14 A. Well, after -- you know, like I

15 said, after watching the video, their

16 size, they were outsized, you know, and,

17 you know, tactical -- like I said, I do

18 training, so tactical advantage would then

19 to probably, you know -- more people

20 there, you know, would have been prudent.

21 Q. Well, you mention -- it mentions

22 here the mental history of the

23 perpetrator, so you were aware, were you

24 not, that this incident took place at a

25 facility that treats people with mental

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1 Fulton

2 health issues, you're aware of that,

3 right?

4 A. I believe so, yes.

5 Q. A place called The Bridge,

6 right?

7 A. Yes.

8 Q. You've heard of The Bridge

9 before, right?

10 A. Not -- I didn't work in

11 Manhattan, but from the incident.

12 Q. Okay. But you knew at the time

13 you were asked to review the tactics, that

14 the incident took place at a facility for

15 people who had mental health issues --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. And you knew that -- were you

20 also advised that Mr. Felix had been

21 diagnosed as a paranoid schizophrenic?

22 A. I mean, I don't know his

23 official diagnosis. I know that -- I

24 believe that someone told the detectives

25 that he has, you know, he had a history of

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1 Fulton

2 mental illness.

3 Q. Right, and do you know what the

4 history was, do you know that it was

5 paranoid schizophrenia?

6 A. I didn't know the official -- I

7 don't recall. I don't recall. I might

8 have known it at the time, I don't recall,

9 maybe.

10 Q. Were you aware as to whether

11 there was a suggestion that he had not

12 been taking his medication?

13 A. I don't recall that.

14 Q. So in this situation, was it

15 your opinion that given the violent nature

16 of what they were looking for him for and

17 given his mental history prior to the

18 intersection, that these detectives should

19 have called a supervisor or called ESU

20 before going up there, was that your

21 opinion?

22 A. No, I said it's prudent, it

23 would have been prudent if they did that.

24 It would have been -- it have been

25 prudent.

<p style="text-align: right;">Page 62</p> <p>1                   Fulton</p> <p>2           [Whereupon, at this time, the</p> <p>3           reporter marked as Fulton Exhibit 1</p> <p>4           the above-mentioned memo from the</p> <p>5           chief of department to the police</p> <p>6           commissioner for identification.]</p> <p>7           Q.   All right, let me hand you</p> <p>8           what's been marked Fulton deposition</p> <p>9           Exhibit number 1. The document you looked</p> <p>10          at before was the -- Tobin 5 was the final</p> <p>11          report for the firearms discharge review</p> <p>12          board in the confines of the 9th Precinct</p> <p>13          -- the document you looked at before,</p> <p>14          which was Tobin Exhibit number 5, was from</p> <p>15          the commanding officer of the patrol</p> <p>16          borough of Manhattan South investigations</p> <p>17          unit to the chief of department, correct?</p> <p>18          A.   That's from chief of department</p> <p>19          to --</p> <p>20          Q.   No, this one here, this one</p> <p>21          here.</p> <p>22          A.   This one?</p> <p>23          Q.   Yes.</p> <p>24          A.   This is from Manhattan South</p> <p>25          investigations unit --</p>	<p style="text-align: right;">Page 64</p> <p>1                   Fulton</p> <p>2           A.   It looks like it's repeating --</p> <p>3           Q.   Yes.</p> <p>4           A.   -- it's similar to what I wrote.</p> <p>5           Q.   And the recommendation, the</p> <p>6           findings and recommendation -- well,</p> <p>7           there's a finding of no violation of</p> <p>8           department firearms policy, correct?</p> <p>9           A.   No violation firearms --</p> <p>10          Q.   And the recommendation was</p> <p>11          retraining of Detective Carter, or</p> <p>12          retraining of tactics --</p> <p>13          A.   Yes.</p> <p>14          Q.   -- correct?</p> <p>15          A.   Yes.</p> <p>16          Q.   And that's signed by Carlos</p> <p>17          Gomez who's chief of department and it's</p> <p>18          approved by chief of Jim O'Neill, correct?</p> <p>19          A.   That's what it says, yes.</p> <p>20          Q.   So that means the commissioner</p> <p>21          of the police department signed off on</p> <p>22          this investigation, right?</p> <p>23          A.   He approved it.</p> <p>24          Q.   Yes. Do you know if there was</p> <p>25          ever any retraining provided to either</p>
<p style="text-align: right;">Page 63</p> <p>1                   Fulton</p> <p>2           Q.   Right.</p> <p>3           A.   -- to chief of department, yes.</p> <p>4           Q.   Okay. Now, the document I just</p> <p>5           handed you which is Fulton Exhibit number</p> <p>6           1 is a memo from the chief of department</p> <p>7           to the police commissioner, correct?</p> <p>8           A.   Yes.</p> <p>9           Q.   Concerning the same matter,</p> <p>10          right?</p> <p>11          A.   It is the same, yes.</p> <p>12          Q.   Yes. And there's a section in</p> <p>13          here, if you look on page, I guess it's</p> <p>14          page five, which is Bates stamped number</p> <p>15          Defendant 2015, where the tactics,</p> <p>16          assessment of tactics and procedure</p> <p>17          appears, correct?</p> <p>18          A.   Yes.</p> <p>19          Q.   And that's similar to the one</p> <p>20          that you made in the earlier document,</p> <p>21          right?</p> <p>22          A.   It looks like what I said, but</p> <p>23          that's not -- I didn't do this.</p> <p>24          Q.   No, I understand, but it's</p> <p>25          repeating your --</p>	<p style="text-align: right;">Page 65</p> <p>1                   Fulton</p> <p>2           Carter or Matias?</p> <p>3           A.   I don't know, no.</p> <p>4           Q.   Well, look at page, on Tobin</p> <p>5           Exhibit number 5, look at page six.</p> <p>6           A.   This one?</p> <p>7           MR. FRANCOLLA: Yes.</p> <p>8           Q.   On subsection seven, where it</p> <p>9           says Detective Carter attended the tactics</p> <p>10          review session on April 26, 2016, do you</p> <p>11          see that?</p> <p>12          A.   Okay.</p> <p>13          Q.   Would that have been retraining</p> <p>14          for Detective Carter?</p> <p>15          A.   I -- yes, the tactics review</p> <p>16          section is done at the range.</p> <p>17          Q.   At the range, right?</p> <p>18          A.   Yes, but I don't -- I don't</p> <p>19          recall him coming, I don't -- me</p> <p>20          personally, I don't remember seeing him or</p> <p>21          doing, you know, this date or anything.</p> <p>22          Q.   As far as you understand, that</p> <p>23          would reflect the fact that Carter was --</p> <p>24          did get retraining on tactics on April 26,</p> <p>25          2016, correct?</p>



<p style="text-align: right;">Page 66</p> <p>1 Fulton</p> <p>2 A. That's what it says, yeah.</p> <p>3 Q. Okay. And when we talk about</p> <p>4 the policy of isolation -- isolate and</p> <p>5 contain, one of the other aspects of the</p> <p>6 policy is that if necessary, you want to</p> <p>7 call ESU or call a bus, right?</p> <p>8 A. Uh-hum.</p> <p>9 Q. That's part of the protocol when</p> <p>10 dealing with EDPs?</p> <p>11 MR. FRANCOLLA: Objection.</p> <p>12 A. I mean, they call a bus for</p> <p>13 EDPs.</p> <p>14 Q. Yes.</p> <p>15 A. For my knowledge.</p> <p>16 Q. A bus referring to an ESU</p> <p>17 vehicle or ambulance?</p> <p>18 A. No, a bus is usually an</p> <p>19 ambulance.</p> <p>20 Q. Okay.</p> <p>21 A. EMS.</p> <p>22 Q. So what is the policy, to call</p> <p>23 ESU or just call an ambulance?</p> <p>24 MR. FRANCOLLA: Objection.</p> <p>25 Q. If you know.</p>	<p style="text-align: right;">Page 68</p> <p>1 Fulton</p> <p>2 was that it would have been prudent for</p> <p>3 them --</p> <p>4 A. Well, they could have called --</p> <p>5 sometimes some guys call for just a radio</p> <p>6 car to back me up, you know, let me get a</p> <p>7 car over here for a nonemergency.</p> <p>8 Q. Okay. Just so we understand</p> <p>9 what we're talking about, it was your</p> <p>10 opinion that the detectives -- it would</p> <p>11 have been prudent for the detectives to</p> <p>12 have requested additional backup personnel</p> <p>13 prior to the interaction, right?</p> <p>14 A. Yes.</p> <p>15 Q. So that was before they even got</p> <p>16 into contact with Mr. Felix, correct?</p> <p>17 A. Yes, yes.</p> <p>18 Q. Okay.</p> <p>19 A. But like I say, I don't know</p> <p>20 what type of, you know, backup -- there's</p> <p>21 -- you know, you're saying the super --</p> <p>22 they should have called the supervisor,</p> <p>23 you know, they could have -- some guys,</p> <p>24 like I said, they, you know, just call a</p> <p>25 backup, an RMP, you know, not a --</p>
<p style="text-align: right;">Page 67</p> <p>1 Fulton</p> <p>2 A. For what type of person?</p> <p>3 Q. For an EDP.</p> <p>4 A. You know, I got 28 years on, and</p> <p>5 1991, you can see from that EDP, this one</p> <p>6 you gave me, is 2013, so there's been</p> <p>7 updates and numerous updates, you know,</p> <p>8 you know, you know, I don't think every</p> <p>9 EDP, unless they changed it, every EDP is</p> <p>10 ESU, because --</p> <p>11 Q. Every EDP is what?</p> <p>12 A. Every EDP needs to request of</p> <p>13 ESU, I think it depends on the nature of</p> <p>14 the violence or maybe nowadays they call</p> <p>15 ESU for every EDP they show up at, I don't</p> <p>16 know.</p> <p>17 Q. But in terms of calling for</p> <p>18 assistance, you would call a supervisor</p> <p>19 who would direct other officers</p> <p>20 to respond?</p> <p>21 A. Again, assistance when, when you</p> <p>22 call an 85? You're just screaming on the</p> <p>23 radio.</p> <p>24 Q. No, I'm talking about before</p> <p>25 they went in that building. Your judgment</p>	<p style="text-align: right;">Page 69</p> <p>1 Fulton</p> <p>2 Q. So what is that, a 1085, a 1013?</p> <p>3 A. 1085, not emergency.</p> <p>4 Q. Okay.</p> <p>5 A. And they call and show up,</p> <p>6 they're, like, hey, we're going in, you</p> <p>7 know, so you know, we're going in to grab</p> <p>8 this guy, can you just back up, you know,</p> <p>9 go in the rear --</p> <p>10 Q. Right.</p> <p>11 A. -- because if he jumps out the</p> <p>12 back or something, okay, you know.</p> <p>13 Q. Exactly. And that was your</p> <p>14 judgment that it would have been prudent</p> <p>15 to do that was based on the violent</p> <p>16 criminal past and mental history of Mr.</p> <p>17 Felix, correct?</p> <p>18 A. And the information I got and</p> <p>19 also the video, I base that on, so I</p> <p>20 looked at the video, I looked at the</p> <p>21 information they gave me, the 49, and</p> <p>22 that's what I wrote, that statement.</p> <p>23 Q. But you're, just to be clear,</p> <p>24 you say the detectives would have been</p> <p>25 prudent to request additional backup</p>